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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,948	04/24/2001	Joseph F. Williams	091451.00501	5633

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EXAMINER

BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,948

Applicant(s)

WILLIAMS, JOSEPH F.

Examiner

Scott Beliveau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15 and 17-72 is/are pending in the application.
- 4a) Of the above claim(s) 20-72 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 6-9 is/are allowed.
- 6) ☒ Claim(s) 12-15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 24 July 2006. These drawings are approved.

Specification

2. The title of the invention continues to not be descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The newly submitted title "Television broadcast alignment and notification" is not indicative of the invention to which the claims are directed. For example, the claimed subject matter does not appear to be directed to 'alignment'. The following title is suggested: "System and method for determining and notifying users of the expected time-channel for a television series".

Claim Objections

3. Claims 10 and 11 are objected to because of informalities. Claim 10 recites that " $3 \leq N \leq 6$, $K=0$, and $M=N-1$ " and claim 11 recites " $7 \leq N \leq 9$, $K=1$, and $M=N-2$ ". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 12-15 and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 sets forth a “computer program product, tangibly embodied in an information carrier, for outputting an expected time-channel for a television series . . . , the computer program product being operable to cause data processing apparatus to . . . “. The application does not set forth or appear to provide any basis with respect to what is meant by an ‘information carrier’ with a reasonable degree of precision and particularity such that it is clear as to what subject matter applicant regards as the invention. For example, an information carrier could reasonably be construed as a non-statutory electro-magnetic signal.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 12-15 and 17-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter and the claimed invention lacks patentable utility.

Claim 12 sets forth a “computer program product, tangibly embodied in an information carrier, for outputting an expected time-channel for a television series . . . , the computer program product being operable to cause data processing apparatus to . . . “. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not

define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. The claimed computer program product that is tangibly embodied in an information carrier which arguably may or may not be a physical medium does not appear to be a computer-readable medium encoded with a computer program as set forth in Lowry.

Allowable Subject Matter

8. Claims 1-4 and 6-11 are allowed.
9. The following is a statement of reasons for the indication of allowable subject matter:

As set forth in applicant's arguments, the art of record either alone or in combination fails to reasonably teach and/or suggest the particularly claimed method wherein "if the determining has determined that the at least one condition has not been satisfied, then making the expected time-channel equal to the reference time-channel, else making the expected time-channel equal to an alternate time-channel, the alternate time-channel differing from the reference time-channel and the at least one condition comprising the TV series has aired on the reference time-channel no more than K weeks of N weeks preceding the reference week, wherein N is an integer of at least 2 and wherein K is an integer that is no less than 0 and the

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TV series has aired on the alternate time-channel during M weeks of the N weeks, wherein M is an integer of at least 2 and greater than 0.50N truncated”.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Jackson (US Pub No. 2002/0133819 A1) reference discloses a system and method for notifying a viewer as to the next showing of a program in a reoccurring series. This reference does not currently qualify as prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Beliveau
Examiner
Art Unit 2623

SEB
August 3, 2006



JOHN MILLER
SUPERVISORY PATENT EXAMINER
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